

H.R. 133

INTRODUCED BY: Rep. Charles E. Bennett (D., FL) on 5 January 1981 and referred to the HPSCI and the Judiciary Committee.

PURPOSE: To prohibit the unauthorized disclosure of information concerning individuals engaged or assisting in foreign intelligence or counterintelligence activities.

TITLE: "Intelligence Officer Identity Protection Act of 1981"

APPROACH:

- (i) Would amend U.S. Criminal Code, title 18;
- (ii) Similar to approach taken in H.R. 4 and S. 391 in that Mr. Bennett's Bill does not limit prosecution to individuals having or having had access to classified or other identifying information, but would also render criminal the unauthorized disclosure of the protected information by "anyone" who makes the unauthorized disclosure;
- (iii) Three categories of potential defendant:
 - Strict criminal liability for the knowing unauthorized disclosure of identifying information by anyone who is or has been an officer or employee of the U.S. or member of the U.S. uniformed services;
 - Strict criminal liability for the knowing unauthorized disclosure of identifying information by anyone who has or has had lawful access to such identifying information;
 - Criminal liability for the knowing unauthorized disclosure of identifying information by anyone, where damage to U.S. foreign intelligence or foreign counterintelligence efforts or prejudice to the safety or well-being of the individual identified can be demonstrated;
- (iv) Penalty for all three categories is same: imprisonment of not more than ten years or \$100,000 fine, or both;

(v) Also contains "false identification" provision; must show prejudice to the Government safety or well-being of the falsely identified individual or damage (adverse affect) to the foreign affairs functions of the U.S.;

(vi) Penalty for false identification is imprisonment for not more than five years or \$50,000 fine, or both;

(vii) Would provide injunctive relief upon an in camera showing that jeopardy to the safety or well-being of a U.S. individual would result from the disclosure or that U.S. foreign intelligence or counterintelligence activities or the foreign affairs functions of the U.S. would be irreparably damaged;

(viii) Recipient of unauthorized disclosure would not be subject to prosecution as an accomplice or for conspiracy.